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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/770,630 | 02/02/2004 | Xi Shen | BYD-02 | 1590 |
| 33139 | 7590 | 03/20/2009 | EXAMINER | |
| Venture Pacific Law, PC | | | KALAFUT, STEPHEN J | |
| 5201 Great America Parkway, Suite 270 | | | | |
| Santa Clara, CA 95054 | | | ART UNIT | PAPER NUMBER |
| | | | 1795 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 03/20/2009 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/770,630 | SHEN ET AL. | |
| | Examiner | Art Unit | |
| | Stephen J. Kalafut | 1795 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 September 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-22 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 1-13 is/are allowed.
- 6) Claim(s) 14,15 and 18-22 is/are rejected.
- 7) Claim(s) 16 and 17 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 17 September 2008 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 14, 15, 18, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xing *et al.* (US 6,844,109) in view of Kaneta (US 7,029,789), Clarke (US 4,646,430), Kaneta (US 2003/0124416) and Biegger (US 4,879,187), for reasons of record applied to original claims 14, 15, 18 and 19. Claim 21 now depends from claim 14 instead of claim 1.

Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Xing *et al.* in view of Kaneta '789, Clarke, Kaneta '416 and Bieggar as applied to claim 14 above, and further in view of Yamaura *et al.* (US 6,426,164).

These claims differ from the above combination by reciting cathode and electrolyte materials for lithium ion batteries. Yamaura *et al.* discloses the cathode material Li_xMO_2 , where M is at least Ni or Co, which would thus correspond to the present $\text{Li}_x\text{N}_{1-y}\text{Co}_y\text{O}_2$ (column 1, lines 64-66), and various electrolyte salt (column 3, lines 63-67) and solvents (column 4, lines 1-14). Because these are intended for lithium ion cells (column 1, lines 12-13), the same type disclosed by Xing *et al.*, it would be obvious to use the cathode and electrolyte materials of Yamaura *et al.* in the battery of Xing *et al.*, also modified according to the teachings of Kaneta '789, Clarke, Kaneta '416 and Bieggar.

Claims 16 and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims. The prior art does not disclose a battery with a section of a conductive electrode tab that includes a material that reacts with the tab during high temperature, to increase the resistance of the tab.

Claims 1-13, for reasons pointed out by applicants, are allowed.

Applicant's arguments filed 17 September 2008 have been fully considered but they are not persuasive.

Applicants argue that Kaneta '416 does not disclose an extruding part of a clamp case that butts against the respective covers of a battery, this feature being recited in claim 1 as now amended. While claim 1 recites this feature, the other independent claim 14 does not.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Kalafut whose telephone number is 571-272-1286. The examiner can normally be reached on Mon-Fri 8:00 am-4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Kalafut/
Primary Examiner, Art Unit 1795